



STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

## License for Diversion and Use of Water

APPLICATION 26439  
Page 1 of 2

PERMIT 18286

LICENSE **12113**  
(over)

THIS IS TO CERTIFY, That Frank Kucera  
c/o Gilbert J. Kucera  
1 Berke Court  
Tiburon, California 94920

has made proof as of April 10, 1986 (the date of inspection)  
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of  
an Unnamed Stream in Napa County

tributary to Burton Creek thence Maxwell Creek thence Pope Creek thence Putah  
Creek thence Lake Berryessa

for the purpose of Irrigation, Recreational and Fire Protection uses

under Permit 18286 of the Board and that the right to the use of this water has been perfected  
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the  
priority of this right dates from July 2, 1980 and that the amount of water to which  
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated  
purposes and shall not exceed four and seven-tenths (4.7) acre-feet per annum to be  
collected from November 1 of each year to April 30 of the succeeding year. The  
maximum withdrawal in any one year shall not exceed 3.6 acre-feet.

This license does not authorize collection of water to storage outside of the  
specified season to offset evaporation and seepage losses or for any other  
purpose.

(0000005)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

North 1,700 feet and West 700 feet from SE corner of Section 29, T9N, R5W,  
MDB&M, being within NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 29.

DESCRIPTION OF THE LANDS OR THE PLACE OF USE WHERE SUCH WATER IS PUT TO  
BENEFICIAL USE IS AS FOLLOWS:

Recreational and fire protection uses at reservoir and irrigation of 8 acres,  
all within NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 29, T9N, R5W, MDB&M, as shown on map on file  
with State Water Resources Control Board.

Licensee shall install and maintain an outlet pipe of adequate capacity in his  
dam as near as practicable to the bottom of the natural stream channel, or  
provide other means satisfactory to the State Water Resources Control Board, in  
order that water entering the reservoir which is not authorized for  
appropriation under this license may be released.

(0050043)

*Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.*

*The quantity of water diverted under this license is subject to modification by the State Water Resources Control Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.*

*Pursuant to California Water Code Sections 100 and 275 and the public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.*

*This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to minimizing waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.*

*The continuing authority of the board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the board determines, after notice to affected parties and opportunity for hearing, that such action takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution.*

*Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.*

*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: FEBRUARY 18 1987

STATE WATER RESOURCES CONTROL BOARD

*Raymond Walsh*  
Chief, Division of Water Rights



STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 26439

PERMIT 18286

LICENSE 12113

Page 1 of 4

**THIS IS TO CERTIFY, That**

Mark Neal and Atchene Neal, Jeffrey Shifflet and  
Michael Shifflet  
Jack Neal & Son, Inc.  
360 La Fata Street  
St. Helena, CA 94575

Have the right to use waters of an Unnamed Stream in Napa County tributary to Burton Creek thence Maxwell Creek thence Pope Creek thence Putah Creek thence Lake Berryessa

for the following purposes: Irrigation, Recreation, Fire Protection

Amended License 12113 supersedes the license originally issued 02/18/1987, which was perfected in accordance with the laws of California, the regulations of the SWRCB or its predecessor, and the terms of Permit 18286. The priority of this right dates from 07/02/1980. Proof of maximum beneficial use of water pursuant to Application 26439 was made as of 04/10/1986 (the date of inspection).

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed 4.7 acre feet per annum to be collected from November 1 of each year to April 30 of the succeeding year. The maximum withdrawal in any one year shall not exceed 3.6 acre feet.

This license does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

Unless a change is approved by the State Water Resources Control Board (SWRCB), water used under this license may be diverted, rediverted, stored and used only as specified below;

**THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:**

North 1700 feet and West 700 feet from SE corner of Section 29, T9N, R5W, MDB&M, being within NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 29.

**A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:**

At the reservoir and irrigation of 25 acres, within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 29, T9N, R5W, MDB&M, as shown on map on file with the SWRCB.

Licensee shall maintain an outlet pipe of adequate capacity in his/her dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this license may be released.

For the protection of wildlife movement corridors, only the actual vineyard units shall be fenced to prevent deer depredation. Wildlife shall be allowed free access to the reservoir. For the stream corridor below the reservoir, the following setback

requirements shall apply, (a) No clearing of trees or brush, new road construction, or fence building shall take place within 50 feet of the stream and (b) The stream setback shall be measured from the top of the bank on both sides of the stream.

Licensee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

(1) Licensee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this license for noncompliance with the terms of the Agreement.

(2) The Court has appointed a watermaster to implement the provisions of the Agreement. The licensee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.

(3) Licensee may employ existing methods or means of measurement (or alternatively any other standard means of measurement normally acceptable or satisfactory to the SWRCB in its administration of appropriative water rights) for determining the amount of water diverted to storage under this license, unless otherwise specified by the Agreement.

(4) Licensee shall install at licensee's own cost such additional or other measurement devices as are necessary to measure actual depletions, if the watermaster determines that additional measures are necessary, consistent with Section 3.A.3 (Measuring Devices) of the Agreement.

(5) Licensee shall report to the watermaster annually, on or about September 1, the amount of water diverted to storage under this license at the beginning and end of the Accumulation Season as required by the watermaster. Such annual reports shall be made in writing on forms approved by the watermaster.

(6) The watermaster shall have the right to enter to inspect measuring equipment and to observe compliance with the terms and conditions of this license, upon 48-hour prior notice and upon such reasonable conditions as licensee may prescribe.

(7) Licensee is hereby put on notice that there may be years when diversion of water under this license will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this license.

(8) In the event Allowable Depletion is exceeded in any year, licensee shall release water diverted to storage to the extent necessary to bring the Allowable Depletion into compliance. Licensee's obligation to release water from storage shall be governed by the repayment provisions of the Agreement. (Agreement pp. 9, 10, and 11)

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, licensee shall have three years, starting in the next Accumulation Season, to make up or repay licensee's excess diversion (2) does not reach 640,000 acre-feet of storage as of May 1, licensee shall have one year, starting in the next Accumulation Season, to make up or repay licensee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, licensee shall be excused from any further obligation for repayment of the overage.

(10) Licensee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

(11) Licensee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the license.

(12) Licensee is hereby put on notice of licensee's right, upon reasonable prior notice, to inspect and to copy, at licensee's own expense, all records and reports of the watermaster.

Inclusion in the license of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this license.

(0000024)

The State Water Resources Control Board (SWRCB) shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this license to delete, revise, amend, or adopt new terms or conditions to: (1) implement the March 10, 1995 Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0000012)

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*Licensee shall allow representatives of SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this license.*

*The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.*

*Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.*

*The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.*

*The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.*

*Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the SWRCB.*

*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

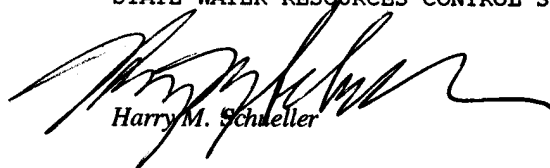
Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: MAY 24 2000

STATE WATER RESOURCES CONTROL SWRCB



Harry M. Schueller

Chief, Division of Water Rights

L12113

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**  
**ORDER**

Application 26439 Permit 18286 License 12113

**ORDER ADDING LICENSE TERM AND  
CHANGE IN PLACE OF USE**

**WHEREAS:**

1. License 12113 was issued to Frank Kucera and was recorded with the County Recorder of Napa County on March 2, 1987, in Volume 1500, Page 590.
2. License 12113 was subsequently assigned to Rullo/Pradel-Howell Mountain Ranch.
3. A petition for change to increase the place of use from 8 to 25 acres of vineyard was filed with the State Water Resources Control Board (SWRCB) on August 21, 1990. The SWRCB has determined that good cause for such change has been shown.
4. The SWRCB will require receipt of an erosion and sediment control plan prior to vineyard expansion within the place of use. A letter dated August 3, 1992 was mailed by the SWRCB to the licensee outlining requirements for compliance with the proposed plan. Mitigation measures and specific terms of the plan as proposed by SWRCB were submitted to the Licensee. No comment was received from the licensee. Evidence of posting the Notice of a proposed Negative Declaration for the project under this license was received by the SWRCB on August 8, 1996.
5. The SWRCB has determined the petitioned change for the place of use and inclusion of the erosion and sediment control plan do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
6. The license condition pertaining to the SWRCB's continuing authority should be replaced with the current version to conform with Section 780(a), Title 23, of the California Code of Regulations.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. The place of use under this license shall be amended as follows:  
  
At the reservoir and irrigation of 25 acres, within the NE¼ of SE¼ of Section 29, T9N, R5W, MDB&M, as shown on map on file with SWRCB.

2. License 12113 shall be conditioned to include an erosion and sediment control plan as follows:

1. Prior to vineyard expansion, the licensee shall submit to the Chief of the Division of Water Rights for approval, an erosion and sediment control plan showing the proposed methods for minimizing erosion and water quality degradation. Licensee shall implement said plan upon receiving approval from the Division Chief. The plan shall contain the following information:
  - a) The nature and purpose of the land disturbing activity and the amount of grading involved.
  - b) General description of existing site conditions, including topography, vegetation, and soils.
  - c) Natural features onsite including streams, lakes, reservoirs, roads, drainage, and other areas that may be affected by the proposed activity.
  - d) Soil types/ soil series identified in the Soil Conservation Service Napa County Soil Survey.
  - e) Critical areas, if any, within the development site that have serious erosion potential or problems.
  - f) Proposed erosion control methods including:
    - i) All drainage systems and facilities, walls, cribbing, or other erosion protection devices to be constructed with, or as a part of the proposed work.
    - ii) Proposed vegetation erosion control measures including location, type and quantity of seed, mulch, fertilizer and irrigation; timing and methods of planting, mulching and maintenance of plant material and slopes until a specified percentage of plant coverage is uniformly established.
  - g) Stormwater stabilization measures, if the development of the site will result in increased peak rates of runoff that may cause flooding or channel degradation downstream.
  - h) An implementation schedule showing the following:
    - i) The proposed clearing, grading, and/or construction schedule.
    - ii) The proposed schedule for winterizing the site (generally by October 15 of each year).
    - iii) The proposed schedule of installation of all interim erosion and sediment control measures, including the stage of completion of such devices at the end of the grading season (generally October 15) of each year.
    - iv) The schedule for installation of permanent erosion and sediment control devices where required.



The erosion control plan shall be prepared only by one or more of the following persons:

- a) A certified professional soil erosion and sediment control specialist (CPSESCS), or a Soil Conservation Service employee working under the direction of a CPSESCS; or,
- b) A licensed civil engineer; or
- c) A registered professional forester; or
- d) A licensed Landscape Architect; or
- e) A certified engineering geologist; or
- f) The licensee or licensee's designee, provided that the plan is reviewed and approved in writing by one of the above.

3. Habitat enhancement: Within one year after issuance of this Order, licensee shall establish riparian plant species around the reservoir (except on the dam). For establishment to be considered successful, each plant must be self-sustaining for at least three years. If mortality causes the number of plants to decline below the target survival rate of 80 percent, new plants will be planted until the success of the revegetation will be submitted to the SWRCB.

- a) Twenty willow cuttings and 20 elderberry seedlings shall be planted around the reservoir. Willow can be planted close to the mean water line. Elderberry should be planted above the high water line, but close enough to have slightly damp soil into the summer.
- b) Plants will be planted in irregular spacings. Irrigation will be applied, when necessary, to promote adequate root growth, thus allowing the plants to survive and grow without surplus water after three years.
- c) Herbicides, weed mats, browse repellents, and herbivore protection kits will be used, if necessary, to control competitive weeds, animal browse, or maintain plant vigor.

4. For the protection of wildlife movement corridors, only the actual vineyard units shall be fenced to prevent deer depredation. Wildlife shall be allowed free access to the reservoir. For the stream corridor below the reservoir, the following setback requirements shall apply:

- a) No clearing of trees or brush, new road construction, or fence building shall take place within 50 feet of the stream.
- b) The stream setback shall be measured from the top of the bank on both sides of the stream as it exists at the time of issuance of this order.

5. The existing continuing authority condition under License 12113 be amended as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to


the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated **SEPTEMBER 10 1998**

  
for Edward C. Anton, Chief  
Division of Water Rights